

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

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THOMAS W. GOULD
CLERK U.S. DISTRICT COURT
W.D. OF TN, JACKSON

ARISTA RECORDS LLC, a Delaware
limited liability company, ET AL.,

Plaintiffs,

VS.

WITNEY CURTIS,

Defendant.

No. 05-1206-T/An

ORDER GRANTING MOTION FOR EXTENSION OF TIME FOR SERVICE

This copyright infringement action was filed by the plaintiffs on July 22, 2005. Process was issued for the defendant, Witney Curtis, on that date. On November 23, 2005, plaintiffs filed a motion pursuant to Fed. R. Civ. P. 4(m), seeking an extension of time in which to effectuate service. Under that rule, service of process must be accomplished within 120 days after the filing of the complaint, absent an extension of time by the Court:

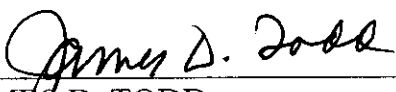
If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. . . .

Upon learning that the defendant no longer resided at the last known address, plaintiffs hired an investigation firm to locate the defendant. That investigation, however,

proved unsuccessful. Plaintiffs state that they are now seeking alternative methods to determine the defendant's whereabouts; consequently, they request an additional 60 days in which to serve process.

As it appears that the plaintiffs have been diligent in their attempts to locate the defendant, the Court finds that they have shown good cause for the failure to serve the defendant within Rule 4(m)'s 120-day time period. Therefore, the motion for an extension of time is GRANTED. Plaintiffs are hereby allowed 60 days after the date this order is entered in which to serve the defendant with process.

IT IS SO ORDERED.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE



DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 5 in case 1:05-CV-01206 was distributed by fax, mail, or direct printing on December 1, 2005 to the parties listed.

Jay S. Bowen
BOWEN RILEY WARNOCK & JACOBSON
1906 West End Ave.
Nashville, TN 37203

Honorable James Todd
US DISTRICT COURT